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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/726,763	12/02/2003	Martin Clive-Smith	A-70132-1/ESW	4195
40461	7590	06/07/2006	EXAMINER	
EDWARD S. WRIGHT 1100 ALMA STREET, SUITE 207 MENLO PARK, CA 94025			GROSSO, HARRY A	
			ART UNIT	PAPER NUMBER
			3727	
DATE MAILED: 06/07/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/726,763

Applicant(s)

CLIVE-SMITH ET AL.

Examiner

Harry A. Grosso

Art Unit

3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 20-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 20-22 and 24-38 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the container configured as a rail wagon (claim 28) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the

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art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 26, 28 and 32 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

3. Regarding claim 26, the specification does not describe a shallow flat plate.

4. Regarding claim 28, the specification does not describe how the container is configured as a railway wagon.

5. Claim 33 recites transverse bracing between the posts and/or the deck. The specification does not describe how the transverse bracing extends between the deck and it is unclear how the bracing extends between the deck or between the deck and what element. Because the metes and bounds of this claim are unclear, it will not be addressed further in this action.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 26, 28, 32 and 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Claim 26 recites a shallow flat plate. It is unclear what is meant by a shallow flat plate.

9. Claim 28 recites the container configured as a railway wagon and it is unclear how the container is configured as a railway wagon.

10. Claim 32 recites "bracing between the post with the gate and the deck." It is unclear what bracing is intended.

11. Claim 33 recites transverse bracing between the posts and/or the deck. It is unclear how the bracing extends between the deck or between the deck and what element.

Claim Rejections - 35 USC § 102

12. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 20, 21, 24-27, 29 and 35-38 rejected under 35 U.S.C. 102(b) as being anticipated by Wakano (5,388,532).

14. Regarding claims 20, 21, 24-26 and 36, Wakano discloses a support post of adjustable length with first and second elements and a plurality of predetermined indexed positions with a detent that is a flat plate with flat face bearing surfaces (54, 74, Figures 1, 2 and 4) that is inserted into rectangular slots for holding the post elements in indexed positions.

15. Regarding claim 27, Wakano discloses a container (Figure 1) with posts retractable to reduce the cross section of the container.

16. Regarding claim 29, Wakano discloses a header of deep cross section (9, Figures 1 and 3).

17. Regarding claims 35, 37 and 38, Wakano discloses the post for a freight container with a flat faced detent as discussed above. The detent pins are of slender rectangular profile and the apertures are rectangular and of short height.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 20-22, 24-28, 31 and 34-36 rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann (3,459,326) in view of Wakano (5,388,532).

20. Regarding claims 20, 21, 24-26 and 36, Betjemann discloses a support post of adjustable length with first and second elements and a plurality of predetermined indexed positions (11, 11A, Figures 1 and 3), and a detent (34, 35, Figures 5, 8, 9) to hold the elements in the indexed positions. Betjemann does not disclose the detent has a flat face bearing surface. Wakano discloses a support post of adjustable length with a detent that is a flat plate with flat face bearing surfaces (54, 74, Figures 1, 2 and 4) that is inserted into rectangular slots for holding the post elements in indexed positions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a flat faced detent corresponding in size to a substantial portion of the post cross section and rectangular slots as disclosed by

Wakano in the post disclosed by Betjemann to spread the stacking and support loads over a larger cross section of the post elements.

21. Regarding claim 22, Betjemann discloses a transverse rail (15) and an operating element (34A, 36A) that is movable relative to the rail.

22. Regarding claim 27, Betjemann discloses a container (Figure 1) with posts retractable to reduce the cross section of the container.

23. Regarding claim 28, Betjemann discloses the container can be configured as a rail wagon in that it can be mounted on a rail car (column 2, lines 8-14) and having adjustable support posts.

24. Regarding claim 31, Betjemann discloses header portions (15 and 16) which are movable end gates (Figure 1, column 3, lines 51-53).

25. Regarding claim 34, Betjemann disclosed the posts extending upward and having transverse header beams and capture and handling fittings (20) on the upper ends of the posts.

26. Regarding claims 35, 37 and 38, Betjemann as modified by Wakano discloses the post for a freight container with a flat faced detent as discussed above. The detent pins are of slender rectangular profile and the apertures are rectangular and of short height as taught by Wakano.

27. Claims 20-22, 24-29, 32, and 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann (3,386,600) in view of Wakano.

28. Regarding claims 20, 21, 24-26 and 36, Betjemann '600 discloses a support post of adjustable length with first and second elements and a plurality of predetermined

indexed positions (23A, 23B, Figures 3 and 4), and a detent (32, Figures 4) to hold the elements in the indexed positions. Betjemann '600 does not disclose the detent has a flat face bearing surface. Wakano discloses a support post of adjustable length with a detent that is a flat plate with flat face bearing surfaces (54, 74, Figures 1, 2 and 4) that is inserted into rectangular slots for holding the post elements in indexed positions. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a flat faced detent corresponding in size to a substantial portion of the post cross section and rectangular slots as disclosed by Wakano in the post disclosed by Betjemann '600 to spread the stacking and support loads over a larger cross section of the post elements.

29. Regarding claim 22, Betjemann '600 discloses a transverse rail (29, 30) and an operating element (The head of detent 32) that is movable relative to the rail.

30. Regarding claim 27, Betjemann discloses a container (Figure 3) with posts retractable to reduce the cross section of the container.

31. Regarding claim 28, Betjemann discloses the container can be configured as a rail wagon in that it can be mounted on a rail car (column 1, lines 50-55) and having adjustable support posts.

32. Regarding claim 29, Betjemann '600 discloses a header of deep cross section (29, 30, Figure 3).

33. Regarding claim 32, Betjemann '600 discloses a gate (29, 30, column 4, lines 71-75) suspended from the posts and braced to the post and the deck.

34. Regarding claim 34, Betjemann '600 disclosed the posts extending upward and having transverse header beams and capture and handling fittings (34) on the upper ends of the posts.

35. Regarding claims 35, 37 and 38, Betjemann '600 as modified by Wakano discloses the post for a freight container with a flat faced detent as discussed above. The detent pins are of slender rectangular profile and the apertures are rectangular and of short height as taught by Wakano.

36. Claims 30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Betjemann '600 and Wakano in view of Saunders (4,144,984). Betjemann '600 and Wakano disclose the invention except for discrete movable header portions mounted on the support posts as movable end gates. Saunders discloses a container with discrete movable headers mounted to support posts and movable as end gates (21, 22, Figure 1) It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of discrete movable header portions mounted on the support posts as movable end gates as disclosed by Saunders in the container disclosed by Betjemann '600 and Wakano to provide an easy means for accessing the container deck from the end of the container without having to remove the end gate completely from the container.

Allowable Subject Matter

37. Claim 23 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on 571-272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Nathan Newhouse
Supervisory Patent Examiner
Art Unit 3727

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